

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ALVIN SUAREZ, on behalf of himself and
all others similarly situated,

Plaintiff,

-against-

BRAND DISTRIBUTORS, INC.,

Defendant.

No. 1:23-cv-10129 (JLR) (OTW)

ORDER

JENNIFER L. ROCHON, United States District Judge:


Before the Court is the report and recommendation of Magistrate Judge Ona T. Wang dated May 23, 2024. ECF No. 29 (the “Report and Recommendation” or “R&R”). Judge Wang recommends that the Court strike Defendant’s answer (ECF No. 10) because Defendant has repeatedly failed to comply with Court orders. R&R. Under 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b), the parties had fourteen days from the service of the Report and Recommendation to file written objections. That time has expired, and no objections have been filed.

Pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b), the Court has reviewed the Report and Recommendation for clear error. *See Gomez v. Brown*, 655 F. Supp. 2d 332, 341 (S.D.N.Y. 2009) (noting that, with respect to “uncontested portions of a report and recommendation, a district court need only satisfy itself that there is no clear error on the face of the record”). “A decision is ‘clearly erroneous’ when the reviewing Court is left with the definite and firm conviction that a mistake has been committed.” *Royal Park Invs. SA/NV v. Deutsche Bank Nat’l Tr. Co.*, No. 14-cv-04394 (AJN), 2018 WLL 1750595, at *21 (S.D.N.Y. Apr. 11, 2018). While striking an answer is a severe penalty, Defendant was warned

repeatedly of the consequences for failure to comply with Court orders. Therefore, the Court finds that Judge Wang's report is not clearly erroneous, and the Court adopts the Report and Recommendation in its entirety. Defendant's answer is hereby STRICKEN.

Dated: June 12, 2024
New York, New York

SO ORDERED.



JENNIFER L. ROCHON
United States District Judge